

3624 TFW



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. **020431.0750**

In re Application of:

NOEL TENORIO

Serial No. **09/750,617**

Filed: **20 DECEMBER 2000**

For: **SYSTEM AND METHOD FOR
NEGOTIATING ACCORDING TO
IMPROVED MATCHING CRITERIA**

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Examiner: **LALITA M. HAMILTON**

Art Unit: **3624**

Confirmation No.: **6553**

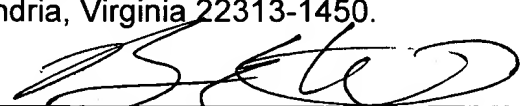
TRANSMITTAL

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Please file the following enclosed documents in the subject application:

1. This Transmittal with Certificate of Mailing;
2. Interview Summary; and
3. Our return postcard which we would appreciate you date stamping and returning to us.


Certificate of Mailing Under 37 C.F.R. § 1.8(a)
Date of Deposit: <u>27 December 2005</u>
I hereby certify that this paper or fee is being deposited with the United States Postal Service as First Class Mail with sufficient postage under 37 C.F.R. §1.8(a) on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.
By: 

No fees are believed to be incurred by the filing of this Amendment. However, if a fee should be required, the Director is hereby authorized to charge any such fee to Deposit Account No. **500777**. If an extension of time is required and there is no separate Petition for Extension of Time filed herewith, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed. Any fee required for such Petition for Extension of Time should be charged to Deposit Account No. **500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

27 DEC 2005
Date


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CUSTOMER NO. 53184
ATTORNEYS AND AGENTS FOR APPLICANT



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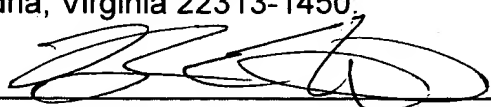
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INTERVIEW SUMMARY

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

This is in response to the Interview Summary mailed on 6 December 2005 and Supplemental Interview Summary faxed on 20 December 2005. On 1 December 2005, a telephone interview was conducted between Brian Harris, agent for applicants, and Examiner Lalita Hamilton. Prior to the telephone interview, an Applicant Initiated Interview Request Form (PTOL-413A) was filed setting forth two issues to be discussed. Each of the two issues was discussed during the telephone interview and is summarized below.

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Preliminary Note Regarding the Scheduling of the Interview

The Examiner's Interview Summary includes several statements regarding the scheduling of the telephone interview. While it seems sufficient to simply record the date of the interview, since the Examiner has opted to include details related to the scheduling of the telephone interview, Applicants feel compelled to fill in details that the Examiner has omitted.

As the Examiner pointed out, the telephone interview was originally scheduled for 23 November 2005. Agent for Applicants called the Examiner at the scheduled time on 23 November 2005. The Examiner indicated that she was very busy, so as a courtesy to the Examiner, Agent for Applicants offered to re-schedule.

According to the Examiner, the interview was re-scheduled for 29 November 2005; Agent for Applicants submits that the interview was actually re-scheduled for 30 November 2005. Thus, as the Examiner points out, Agent for Applicants called the Examiner on 30 November 2005. However, the Examiner stated that she was not prepared to conduct the interview at that time, so the interview was again re-scheduled for 1 December 2005.

It should also be noted that the Examiner stated during the 30 November 2005 telephone conversation that she was not at work on 29 November 2005 and therefore would not have been available for a telephone interview on 29 November 2005.

Thus, the discrepancy regarding the date for which the interview was re-scheduled seems a rather moot point, not only because it has no bearing on the patentability of the present application, but also because the Examiner would not have been available on 29 November 2005 anyway.

Issue 1: Recitation in claim 1 of "automatically modify...values"

Applicant requested clarification with respect to the Examiner's allegation that U.S. Patent Application Publication No. 2002/0116317 to May ("May") discloses a server operable to automatically modify one or more values of an offer as claimed, for example, in

claim 1. In response, the Examiner referred to the Office Action dated 12 August 2005, which states that May discloses the capability to submit a counter-offer and a user can change the values. Applicant pointed out that the claimed server, which can *automatically* modify a value, is different from the May system, which the Examiner indicates can prompt a user so that a user can change a value. Applicant also pointed out that the 12 August 2005 Office Action did not appear to recognize or give patentable weight to the term “automatically” recited as part of the phrase “automatically modify one or more values” in claim 1 because the Response to Arguments in the 12 August 2005 only refers to “modifying values of the offer.” However, the Examiner simply repeated that May discloses the capability to submit a counter-offer and a user can change the values.

Issue 2: Traversal of allegation of acquiescence


Applicant requested clarification with respect to the Examiner’s allegation that Applicant acquiesced to May being properly-citable in support of a rejection under 35 U.S.C. 102. Applicant is unaware of any such acquiescence, and is further unaware of any proper basis or authority for the Examiner’s allegation. In response, the Examiner indicated that she was unable to cite a rule or any other authority that supports the allegation. Instead, the Examiner suggested that Applicant contact one of her supervising Examiners.

No fees are deemed to be necessary for the filing of this document; however, the undersigned hereby authorizes the Director to charge any fees that may be required, or credit any overpayments, to **Deposit Account No. 500777**. If an extension of time is required to enable this document to be timely filed and there is no separate Petition for Extension of Time filed herewith, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed. Any fee required for such Petition for Extension of Time should be charged to **Deposit Account No. 500777**.

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